

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6439 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

NILESH @ BHILO HEMANTSINH GOHEL

Versus

STATE OF GUJARAT

Appearance:

MR SHAKEEL A QURESHI for Petitioner

MS HARSHA DEVANI, ld.AGP for Respondents.8

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/10/2000

ORAL JUDGEMENT

This Special Civil Application is directed
against the detention order dated 21st May 2000 passed by
the Police Commissioner, Rajkot City whereby the
petitioner has been detained under the Gujarat Prevention

of Anti Social Activities Act, 1985 in accordance with the provisions of Sec.3(2) thereof. On the same date, i.e. 21st May 2000, the petitioner was committed to Bhavnagar Jail and since then the petitioner is under detention. No reply to the petition has been filed by the State.

2. The grounds of detention enclosed with the detention order show that there were three criminal cases registered against the petitioner under the provisions of the Act, i.e. C.R. No. 62/99 dated 3rd July 1999 at Rajkot Taluka Police Station, C.R. No.86/2000 dated 14th May 2000 at Malaviya Nagar Police Station, Rajkot City, and C.R.No. 72/2000 at Rajkot Taluka Police Station, Rajkot City respectively. The criminal case arising out of C.R. No.62/1999 is pending in the Court whereas in two matters, the investigation was pending at the time when the detention order was passed. The detaining authority has given details of the allegations against the petitioner in the aforesaid criminal cases and has come to the conclusion that the petitioner's detention was the only alternative left so as to prevent him from carrying on the activities of boot-legging. The petitioner has been branded as a boot-legger and has been accordingly detained. The petitioner submitted a representation dated 4th July 2000 to the Secretary, Home Department (Spl.). According to the petitioner, the same was received by the Home Department on 7th July 2000, but no reply was given. Learned AGP has orally stated that the same was decided on 10th July 2000 against the petitioner. In the facts of the present case, the only material on the basis of which the detention order has been passed is the three criminal cases and his boot-legging activities. The law is settled that such allegations, at the most, constitute a case of breach of law and order and not the public order. There is no cogent material whatsoever on the basis of which an opinion could be formed that the petitioner's activities had become a threat to the public order and the bald allegations mentioned that he has become a threat to the public order which may seriously affect the health, cannot be taken on its face value in absence of credible and reliable material which is totally non-existent in this case. The detention order, therefore, cannot be sustained in the eye of law and the same requires to be quashed and set aside.

3. In the result, this Special Civil Application is allowed. The impugned detention order dated 21st May 2000 passed by the Police Commissionr, Rajkot City is hereby quashed and set aside and it is directed that the

petitioner, Nilesch @ Bhilo Hemantsinh Gohel, detained at Bhavnagar Jail shall be released forthwith if not required in any other matter. Rule is made absolute accordingly.

(M.R. Calla, J.)